

MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE

November 26, 1996

The Capital Projects and Bond Oversight Committee met on Tuesday, November 26, 1996, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senators Tom Buford, Bob Leeper, and Denny Nunnelley; Representatives Jim Maggard, Tommy Todd, and Jim Wayne.

Guests: Bill Hintze, Earl Clemons, Allen Holt, Governor's Office for Policy and Management; Commissioner Armond Russ, Jim Abbott, Department for Facilities Management; Kim Blitch, Office of Financial Management and Economic Analysis; Cheryl Roberts, Alex Hamilton, Justice Cabinet; Bob Carter, Cleland White, Department of Military Affairs; Melanie Bailey, Natural Resources and Environmental Protection Cabinet; Bob Bender, Hugh Smith, Department of Parks; Commissioner Gary Rose, Kentucky State Police; Debra Wash, Administrative Office of the Courts; George DeBin, Mary Allen, University of Kentucky; Tom Schulz, Kentucky State District Council of Carpenters.

LRC Staff: Mary Lynn Collins, Pat Ingram, Scott Varland, Wilda Bond, Jack Affeldt, Jerry Bailey, Sharon Cantrell, Karen Crabtree, Jeff Fossett, Don Judy, Steve Mason, Wanda Meeks, Nancy Osborne, Dan Risch, Charles Shirley.

Representative Wayne made a motion to approve as submitted the minutes of the October 22, 1996 meeting. The motion was seconded by Senator Leeper and approved.

Chairman Damron said several Correspondence items were provided: (1) the University of Kentucky and the University of Louisville submitted their annual capital

accommodate new paper shredding equipment the Cabinet acquired for its recycling program. The lessor, Leestown Company, submitted 2 bids for the work - \$5,454 and \$3,453.84. NREPC requested approval of the low bid. Therefore, \$3,453.84 will be amortized over the remainder of the lease term (thru June 30, 1998), raising the sq. ft. rate of the lease from \$2.95 to \$3.04. The annual cost of the lease will increase from \$56,192 to \$57,906. Lease modifications of less than \$50,000 must be reported to the Committee after execution, but Committee action is not required.

Mr. Abbott also reported square footage modifications for 10 state leases during July, August, and September 1996.

1. PR-1723 - Jefferson County (Workforce Development/Human Resources Cabinets) - An increase of 3,136 sq. ft., for a total of 28,000, to incorporate interior space recently vacated by Job Link, a city/county organization. Because Job Link's former space is in the middle of state-leased space and therefore cannot readily be leased to anyone else, the lessor agreed to renew the lease at the same terms and conditions if that space were incorporated into the state leases. Leased property is at 5800 Fern Valley Road, Louisville. Lease expiration was 6-30-96; it is now extended to 6-30-2003. Real Properties reported that both Workforce Development and Human Resources have submitted requests that other space be found to house their functions.

2. PR-3306 - McCracken County (Public Advocacy) - An increase of 428 sq. ft., for a total of 3,300, to incorporate formerly common space. Public Advocacy has shared this facility with another tenant; when that tenant left, Public Advocacy took over the vacated space (reported to CPBOC in May 1992). The lessor recently agreed to renew this lease under the same terms and conditions if Public Advocacy would begin to pay rent for formerly common space such as hallways, restrooms, etc. The lease's expiration date was 6-30-96; it is now extended to 6-30-2001.

3. PR-3319 - Anderson County (Military Affairs) - An increase of 865 sq. ft., for a total of 1,276, to alleviate overcrowding for the 2 employees, and to provide additional space for storage of training materials and equipment, response equipment, and office supplies. This facility in the West Park Shopping Center at the intersection of US 127 South and Ky. 62 is used as a training site for Disaster and Emergency Services.

4. PR-3539 - Rowan County (Public Advocacy) - An increase of 859 sq. ft.,

6. PR-3812 - Franklin County (Transportation Cabinet) - A decrease of 600 sq. ft., from 1,000 sq. ft. to 400, to eliminate distillery warehouse space no longer needed by the agency.

7. PR-3862 - Franklin County (Dept. of Insurance) - An increase of 5,549 sq. ft., for a total of 38,985, to alleviate overcrowding at 205 West Main, Sullivan Square, and to accommodate additional staff for expansion of the Fraud Investigation Division.

8. PR-3871 - Hardin County (Commonwealth's Attorney) - An increase of 397 sq. ft., for a total of 2,030, to accommodate additional staff. The Attorney's former space at 54 Public Square in Elizabethtown was destroyed by fire 12-30-95. The lessor provided alternative space so the Attorney could continue operations. The lessor is now providing renovated space at 52 Public Square with additional square footage for an additional staff person. Leased space is across the street from the courthouse. Lease expiration is 6-30-99.

9. PR-3960 - Franklin County (Dept. of Insurance) - A decrease of 5,553 sq. ft., for a total of 11,372, to reassign a portion of the space at 909 Leawood Drive, Frankfort, formerly occupied by the Health Policy Board to the Dept. of Insurance, to house Board functions and staff transferred to Insurance. (Change of lessee from the Board to the Dept. of Insurance is also reported at this time.) Space includes several large meeting rooms for public hearings. Lease expiration is 6-30-97.

10. PR-4009 - Franklin County (Dept. of Education) - An increase of 1,382 sq. ft., for a total of 6,045, to accommodate 5 additional staff and to provide additional training and support space at 193 Versailles Road. Lease expiration is 6-30-2003.

Lease modifications of less than \$50,000 must be reported to the Committee after execution, but Committee action is not required.

Next were the bond activity reports submitted by the Office of Financial Management and Economic Analysis (OFMEA). Ms. Kim Blich first reported School Building Revenue and Refunding Bonds, Series 1996, with state funding through School Facilities Construction Commission (SFCC) participation in annual debt service payments, for the following school districts:

a. Bracken County - with gross proceeds of \$171,000, to renovate high

c. Floyd County - with gross proceeds of \$3,465,000, to refund 1988 bonds. Annual SFCC debt service participation of \$148,142 and locally-funded debt service of \$275,500.

d. Magoffin County - with gross proceeds of \$850,000, for a partial refunding of 1988 bonds. Annual SFCC debt service participation of \$105,000 (100%).

e. Nelson County - with gross proceeds of \$1,020,000, to refund 1987 bonds. Annual SFCC debt service participation of \$55,229 and locally-funded debt service of \$76,518.

f. Pineville Independent (in Bell County) - with gross proceeds of \$595,000, for a partial refunding of 1987 bonds. Annual SFCC debt service participation of \$45,000 and locally-funded debt service of \$35,000.

g. Rockcastle County - with gross proceeds of \$290,000, to build an addition at Mt. Vernon Elementary. Annual SFCC debt service participation of \$24,356 (100%).

h. Washington County - with gross proceeds of \$975,000, to renovate the high school. Annual SFCC debt service participation of \$30,401 and locally-funded debt service of \$48,329.

i. Wayne County - with gross proceeds of \$360,000, to install air conditioning at an elementary school and a middle school. Annual SFCC debt service participation of \$29,343 (100%).

j. Wolfe County - with gross proceeds of \$1,375,000, for a partial refunding of 1989 bonds. Annual SFCC debt service participation of \$49,000 and locally-funded debt service of \$116,000.

In response to questions from Chairman Damron, Ms. Blich said of the 10 new bond issues reported, 6 are to refund existing debt of school districts, and these refundings represent interest rate savings for the districts. She said the bonds reported today total \$9,621,000, with average annual state debt service of \$550,471 and average local debt service of \$554,000. There were no local school tax rate increases associated with the bonds.

Next on the agenda was the monthly project from the Finance and Administration Cabinet. Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management (GOPM), and Mr. Armond Russ, Commissioner, Department for Facilities Management, were present. Mr. Hintze said first to be reported was an allocation of \$500,000 from the emergency repair, maintenance and replacement account for the Breathitt County Secure Juvenile Detention Facility, Department of Juvenile Justice, Justice Cabinet. The scope of the project, with the emergency allocation, will now be \$3,424,450 (35% over General Assembly authorization). (The project was authorized by the 1990 and 1994 General Assemblies for state bond funds totaling \$2,543,000. The project was initially planned for Rowan County; in November 1993, it was reported to the Committee that the site was changed to Breathitt County and that Breathitt County would donate the site as well as fund a sewer line to link the Facility to the City of Jackson's sewer system. In February and September 1995 the Capital Projects Committee approved cost overruns for the project. The first overrun, with \$200,000 in restricted (agency) funds, was to equip and furnish the Facility and to add a package sewer plant because Breathitt County was unable to finance the sewer line. The second overrun, with an allocation of \$181,450 from the state capital construction and equipment purchase contingency account, was to accept the low construction bid on the project. These 2 increases, together, expanded the project scope by the statutory limit of 15% and raised the total project scope to \$2,924,450.)

Mr. Hintze said unfortunately the state has hit another roadblock in the development of this project which has occasioned Finance Secretary John McCarty to approve the allocation of emergency funds for the project, to enable the Facility to open within health, environmental, and certification standards.

He said this is the first such secure juvenile detention facility to be owned and operated by the Commonwealth; it has been a local responsibility previously. This facility started on a patchwork basis with the 1990 Session of the General Assembly. At that time it was in another county at a cost of \$1 million. It has since been transformed into a larger facility in Breathitt County at a cost authorized by the General Assembly in regular session and in successive actions reported to this Committee.

Mr. Hintze said the 1996 General Assembly authorized operating and personnel funds for this Facility to open January 1, 1997. It was most recently anticipated that the Facility would open February 1. Because of concerns with the wastewater treatment needed at the site, opening will now be delayed until approximately July 1, 1997. He

state has stepped in with this \$500,000 allocation, to make sure that this Facility will meet all standards. In addition to allowing the Facility to meet the wastewater treatment standards for the foreseeable future, he said, it is also necessary to provide some additional furnishings and equipment for the Facility, and if bids are favorable, to pave the Facility's parking lot. Those 3 components comprise the \$500,000. Finance Secretary McCarty has declared this an emergency, inasmuch as there is a huge backlog of need for secure juvenile detention beds, and this is in furtherance of House Bill 117 as passed by the 1996 General Assembly which tremendously elevated the state's role in juvenile justice.

Mr. Hintze said the good news, if there is any, is that this is a long-range solution, and the Justice Cabinet will be required to repay the emergency account with existing revenues that can be captured from the operating budget for the Facility. In this manner, the emergency account remains intact, the work can go forward expeditiously, and the Facility can open on or about July 1.

Chairman Damron asked what the additional \$200,000 approved by the Committee for the project in February 1995 has been used for since there will be no package sewer plant. Mr. Hintze said it has been committed to or exhausted by other components of the project. A portion of the package plant was purchased as planned, and, as far as he knew, it is on site and will be relocated for use at another state facility, yet to be determined. The engineering consultant thought the package plant was a viable solution, and up until about 6 weeks ago, it looked as if it would work. It has now been determined it will not work, or at best is a short-term solution, and it probably will not support future expansion of the Facility as is contemplated.

Chairman Damron asked when it was determined that the package plant would not work. Mr. Hintze said Finance Secretary McCarty found out last month, as he did. Ms. Cheryl Roberts of the Justice Cabinet said the Cabinet also found out about that same time. Mr. Hintze said of the \$200,000 cost overrun reported in February 1995, according to his understanding, about \$60,000 was associated in committed costs with the package plant.

Chairman Damron asked why the Justice Cabinet or the Corrections Department did not tell the 1996 General Assembly that additional funds were needed for the project, because someone at the agency had to know additional funds were needed before the General Assembly adjourned in April 1996. He said the cost of this Facility

chosen for the western and northern Kentucky facilities, so that when the state goes into construction, it will have a better idea of the soil conditions it will have to deal with. She said the Justice Cabinet did not know about this particular situation when the 1996 General Assembly was in session or it would have asked for additional funds. She said this is something that came to the Cabinet's attention within the last 45 days.

Chairman Damron, noting that the Justice Cabinet will be required to use operating funds budgeted for the Breathitt County Facility's operation to repay the emergency account, asked if that money will not be needed to pay for the housing of juveniles elsewhere in the system. Mr. Hintze said the secure detention of these pre-adjudication juveniles is a county responsibility right now, not paid for by the state directly or indirectly. He said that will change when the state, for the first time, makes a facility available to counties in eastern Kentucky, and then sequentially in northern and western Kentucky.

Chairman Damron asked if, then, this \$500,000 in cost to house juveniles is, therefore, being borne by county governments. Mr. Hintze said that is correct, though counties can probably house juveniles at a lesser cost than the state can and their facilities may or may not be as secure as the state facility will be. Chairman Damron said Jessamine County houses some juveniles for other counties and it charges, he thought, about \$75 per day. Mr. Hintze said that is correct. He said the state's savings is in funds appropriated for the first time to operate a state juvenile detention facility beginning January 1, 1997.

Chairman Damron said the Committee, Mr. Hintze and the Finance Cabinet discussed recently the need for Memoranda of Agreements (MOAs) when local governments and the state collaborate on a project, including when the state acquires property. He asked how the state came to own this project's site without proper testing being done. Mr. Hintze said this project has a checkered history. He said he did not know if there was an MOA on this project. He said sometimes when the state gets donated sites, it runs into difficulties it does not anticipate, and that is the case here. Chairman Damron asked if there are changes being made at the cabinet level to assure this does not happen in the future. Mr. Hintze said that definitely is being done in secure juvenile detention facilities and elsewhere.

Chairman Damron asked if MOAs are in place for the western and northern Kentucky secure juvenile detention facility projects, requiring that state procurement

Chairman Damron said he hoped such tests would be done before the state acquires the site. Ms. Roberts said the tests have already been done in McCracken County.

Chairman Damron said he supports the juvenile facility projects, but he has serious concerns about how efficiently and businesslike the state goes about acquiring property. He said there were serious concerns about this during the 1996 Session; there was legislation that passed the House but died in the Senate that would have addressed some of the problems relating to MOAs. He said he will continue to push for that legislation in the 1998 General Assembly.

Representative Maggard said the Finance Cabinet and the Justice Cabinet encountered problems with this project that they never anticipated they would encounter. First of all, he said, the Finance Cabinet inherited some of the problems because there was a haste on this project. His efforts to try to inform local officials that they were approaching the project in the wrong manner, he said, fell on deaf ears and they proceeded anyway. The Cabinet was under the impression that Breathitt County would donate the site for the project, if funding to construct the project were to be authorized. He said he met with the chair of the budget review subcommittee on corrections on many occasions and convinced him the project should be funded; however, he said, immediately after funding was authorized he knew there would be problems. He said he never felt enough money was budgeted to complete the project, and local officials, in their haste to get the project for Breathitt County, did not look closely at the details. The property that was supposedly donated to the state as the site was actually acquired by the City of Jackson at a cost of over \$100,000, with a commitment from the County Fiscal Court that it would eventually assist in funding the property acquisition.

In his personal opinion, he said, this was the first mistake made, because there was property available in Breathitt County that could have been the site of the project with no cost to the City of Jackson or the County except for excavation and hook-up of the sewer and water lines. Then, after the property was purchased by local government entities, all types of problems were encountered. There was no water line to the property. The soil was "atrocious" from past environmental problems. Therefore, he said, the state continued to encounter problems. He said he believed all along that constructing a package sewer plant on the property would be costly and a short-term solution. He noted that the sewer line to the site now proposed will be uphill all of the way and will require a pumping station which is expensive; the Cabinet estimated the

Representative Wayne thanked Representative Maggard for explaining the project's history. While he would not dispute the comments about local accountability, he said he had some questions regarding the state's responsibility. First of all, he asked if an actual accounting could be provided as to how the additional \$200,000 approved for the package plant in February 1995 was used. Mr. Hintze said he would provide that. Representative Wayne then asked about the liability of the engineering consultant. Evidently, he said, there were one or more consultants called in to deal with the sewer issue, and he wondered if there is any legal liability when a consultant basically gives bad advice. Facilities Management Commissioner Armond Russ said while much of this activity occurred before he was appointed to his current position, he understood the plan to put in the package plant was designed properly and was approved by the Division of Water in the Natural Resources and Environmental Protection Cabinet. Part of the problem installing the package plant has to do with the site conditions, he said, and when the decision to install the package plant was made a year ago, tapping into the city/county sewer system was not considered an option. Now that option is available and it will support not only the current Facility, but also any future expansion of the Facility. He said the package plant is on site and is usable, though the Division of Water has indicated it no longer likes to use them but will allow them in the short term if a permanent solution is planned.

Representative Wayne asked which private consultant studied the site and made recommendations at the time the \$200,000 was requested. Commissioner Russ said a mechanical consulting firm, Kaiser Taulbee of Lexington, supported the architect for the project. He said Kaiser Taulbee is a good firm and has a long-standing relationship with the state.

Representative Wayne said this situation is a mess. He said he did not know whether the local officials are accountable or whether the state or a private consultant are responsible, or perhaps it is a shared responsibility. But, he said, if you add in the local taxpayers' contribution on the project acquisition, the cost of this Facility is now up to \$146,000 per bed, while the national average is \$102,000 per bed. He said the point is there has to be some accountability; he asked for information on the private consultant to find out what happened in that respect, as well as an accounting of the use of the \$200,000 scope increase. Mr. Hintze said that information will be provided. He said this is a miserable case study of a project - it stagnated for 4 years at 3 sites in Rowan County, the county designated by the General Assembly to receive it, and when

Representative Maggard said, when one talks about who is responsible, he wanted to make clear there was no deliberate attempt on anyone's part to harm the project; it was more of a communications breakdown and gathering misleading "facts" rather than really researching what should be done. He said he agrees that this project does raise a lot of questions, but at the same time, he wanted to express appreciation to the Finance Cabinet for coming forward and agreeing to do what is needed for the project. He said the state has about \$3 million invested in the project now, and it needs to be finished.

Chairman Damron said Committee action is not required for allocations from the emergency account, though the Committee may wish to endorse the Finance Cabinet's requirement that the Justice Cabinet use operating funds to reimburse the account. He said, based on the way some Parks Revitalization projects are going, the state may need every dollar in the emergency account that it can find. Representative Maggard made a motion to accept the Finance Cabinet's request with regard to the project and to endorse the concept the Cabinet is utilizing to make sure the Facility is completed, with the requirement that the Justice Cabinet use operating funds budgeted for the first 6 months' operation of the Facility to reimburse the emergency account. Senator Buford seconded the motion.

In discussion on the motion, Representative Wayne asked if Representative Maggard would modify his motion to make clear that this is a rare exception in use of the emergency account and it is not establishing a precedent for the use of the emergency account to fund project cost overruns. Representative Maggard agreed. The motion was approved by unanimous voice vote.

Mr. Hintze said the second item to be reported is allocations from the emergency account and the capital construction and equipment purchase contingency account for a cost overrun on a budgeted Parks Revitalization project - Replacement of the Wastewater Treatment Plant at Buckhorn Lake State Resort Park in Perry County. (The project's construction was authorized by the 1994 General Assembly in its first special session with \$507,600 in bond funds. The project also received \$32,400 in general funds for design from the Parks Revitalization Project Design Pool, for a total authorized scope of \$540,000.) Mr. Hintze said the project has now been bid and the bids are substantially over the authorized scope. The 1996 General Assembly authorized a new 300-seat convention center for the Park, which hopefully will increase

reasons, as well as to maintain ongoing government operations for visitors to the Park and the new convention center clientele.

Chairman Damron asked if the package plant at the Breathitt County Juvenile Detention Center can be used at Buckhorn Park. Mr. Hintze said the package plant is much too small for the Park, but the Finance Cabinet is going to look for another state facility where the package plant will work.

Chairman Damron said he had learned that the Parks Department reported to the Interim Joint Committee on Appropriations and Revenue on October 21 that this project was being considered for redesign and rebid at a later date. He asked when the decision was made to proceed with the project at this time. Mr. Bob Bender, Deputy Commissioner, Parks Department, said it was determined by the consultant, the Finance Cabinet, and Parks officials that the project's scope could not be reduced any further, and there was no reason to rebid. He said he was unsure of the exact date when the decision was made. Chairman Damron said he was concerned that Finance had already taken action on the project, noting that Committee staff received a copy of a work order last Thursday committing the state to accepting the low bid. Mr. Bender said normally a bid only stays open for 30 days, so the state has to move quickly. Chairman Damron noted that transfers from the contingency account prior to Committee review is clearly a violation of KRS 45.800. Mr. Hintze said it is a technical violation of the statutes. Chairman Damron said that is like saying robbing a bank is a technical violation of the criminal code. He said he knew he was beating on the messenger, but this premature transfer was one of 2 on the agenda today. There was another project being reported - the Cumberland Falls State Park's Community Pool Renovation project - where a Finance Secretary's Order authorized the transfer of funds from the contingency account to the project prior to review and action by this Committee. He said the Committee is concerned that a precedent not be set to allow this to happen on a regular basis. He said he knew that the Administration got approval to go around the Committee for EMPOWER Kentucky, but neither of these projects are EMPOWER Kentucky projects, and KRS 45.800 says clearly that prior to transferring any funds from any source to the allotment account of a capital construction project or major equipment, the relevant entity or his designee shall present the proposed transfer to the Capital Project Committee at least 14 days prior to a Committee meeting for its review. He said the Finance Cabinet knows when the Committee meets, and any bid acceptance should be scheduled at least a day or 2 after a Committee meeting in the event that the Committee does not approve it, and then the Finance Secretary can

said, the Administration believes that the emergency declaration of the Secretary, which power is conferred without any necessity to slow down a bid award or other action, superseded the contingency allocation that would have occasioned a delay in bid award, and that is the action taken. Typically, when the Secretary approves an emergency allocation and notifies the Committee in writing, that is the authority that the Department for Facilities Management, the affected agencies and the Governor's Office for Policy and Management (GOPM) work under to move money and notify contractors, and that is what happened here. This is an unusual mix of funds and events, he said, in that the contingency award and the emergency award were made at the same time. The Cabinet could have used all the funds from the emergency account in this case, but chose not to after deliberation because of sensitivity to the Committee's concern that the emergency fund be safeguarded above all others. Thus, the first part of the overrun was from the contingency and the last portion from the emergency. He said documentation was received of the concern of the Natural Resources Cabinet, as well as the Administration's concern that this is a weather-sensitive, bid-sensitive issue, and the longer it is delayed, the less likely the facility will reopen as advertised.

Mr. Hintze said all of the Parks Revitalization projects have posed for Secretary McCarty, Commissioner Russ and his staff, GOPM, and the Parks Department a tremendous dilemma - the projects have got to be moved in the state parks' off season to avoid loss of revenues. Every delay, every bid overrun, and every problem the state encounters forces the Administration to make decisions and choices that are at odds with its preferences and sometimes are at odds with the letter of certain parts of the statute. The Administration reviewed this one and will review the others in terms of the broad public purposes endorsed by the General Assembly and the Administration - that is, revitalize the parks, get the projects turned over as quickly as possible, reintroduce the economic development and tourism revenue stream that supports the economy, and do so in full public disclosure. He said it makes for some "stretches" and some difficult calls.

Chairman Damron said the reason the Committee exists is the legislature believed it was important to have a committee in place to provide oversight of the capital construction process during the interim. He said had the Secretary made the decision to fund all of the overrun from the emergency account to avoid the required prior review by the Committee for contingency allocations, it would have been even worse. He said the Secretary did not make that decision, and rightfully so, and he would hope the Secretary would take it out of the contingency account first before the

has been full public disclosure of every action to the Committee. Chairman Damron said he agrees that has been done and he did not mean to question that. He said there is something involved in the process that is going on now that has not happened in the past, that has resulted in work orders being issued prematurely twice this month.

Representative Maggard asked whether prior review by the Committee is supposed to be done for allocations from the emergency account. Mr. Hintze said not in his view. The emergency account is different from the contingency account; it is set out so the Finance Secretary can act immediately in emergency situations, and the Committee is to be notified within 30 days. He said the contingency account setup contemplates that the Finance Secretary takes action and provides notification to the Committee, then we wait until the Committee meets, the Committee reviews and comments, and then the final action moves forward. He acknowledged there are a couple of instances on the day's agenda where that is not happening. The instances tend to be Parks projects which are time and weather-sensitive. He said the volume of activity has made it difficult to meet every directive.

Representative Maggard said he thought Mr. Hintze was correct in saying the Secretary has complete final authority during the interim, regardless of what the Committee does here today. While the legislature writes all laws when it is in session, it is virtually powerless during the interim.

Representative Wayne made a motion that the Committee not act on the contingency and emergency allocations for this project. Senator Leeper seconded the motion.

In discussion on the motion, Representative Maggard asked what will happen next if the Committee does not act on the project modifications. Chairman Damron asked staff to respond. Ms. Mary Lynn Collins said if the Committee adopts a motion not to act on the project, the next step would be the same as if the Committee voted to disapprove the project. According to KRS 45.800, the Finance Secretary is to respond to the Committee in writing explaining his decision to act contrary to the Committee's action. Representative Maggard asked if the Committee's decision not to act will prevent the Secretary from continuing the project. Chairman Damron said it is impossible to stop something that has already been done. Ms. Collins said according to KRS 45.800, the Finance Secretary does have the final say. She said this Committee is to report to the Secretary on its position on the project, and then it is up to the

The next project involved a contingency allocation of \$125,000 for a cost overrun on another budgeted Parks Revitalization project - the New Sewer Plant at Natural Bridge State Resort Park. (The 1994 General Assembly in its first special session authorized funding totaling \$1,189,285 for this project, including General Fund Surplus monies of \$1,080,000, under the Surplus Expenditure Plan, and Investment Income of \$109,285.)

Mr. Hintze said this project is under construction and problems were encountered on-site. More work has been required than anticipated because of soil contamination. The Finance Cabinet, the Parks Department, and GOPM recommend the approval of a scope increase of 10.5% or \$125,000 to adjust the ongoing work on-site. He said the contractor is working, and as he encounters contaminants, he tries to confine them and minimize the damage. The new total project scope will be \$1,314,285.

Representative Wayne asked who the environmental consultant was on this project. Commissioner Russ said McCoy and McCoy is the consultant who looked at it about 6 years before the General Assembly authorized the project. It was discovered at the time other work was going on that there was a problem. He said the site was basically a railroad turnaround that was constructed in the early 1900's; the area was originally used as a base camp for logging, and then in the 1920's and 1930's oil was discovered in the area and some oil storage tanks were constructed. Railroads in those days used either crude oil or diesel fuel to control weeds on railroad tracks. Back in 1989, some of this contamination was discovered and work was done to clean it up. A filtration system to siphon the groundwater and remove the hydrocarbons was developed. The area involved was in the vicinity of the Park's maintenance area, the residential area, and the area toward the chairlift. He said the problem was thought to be under control, and is, except for a "hot spot" uncovered during construction. Immediate steps had to be taken to get the project back on track; some redesign work was done to minimize the amount of excavation. The Finance Cabinet also authorized another study, not a part of this project, to determine the extent of contamination and develop a remediation plan.

Representative Wayne said the report the Finance Cabinet made to the Committee indicates that the environmental consultant hired by the state determined that the contamination would not jeopardize the construction of the plant and thus construction began. He asked if that was based on the 1988/1989 McCoy and McCoy report. Commissioner Russ said that is correct. When this particular problem was

of construction. McCoy and McCoy's report was done not specifically as a part of this construction, though it was tied in to it, and they in fact fulfilled their obligation - they designed a treatment system to remove the crude oil in the area. That system was not designed to clean the soil up overnight; a filtration system is a long-term low-cost way of cleaning up the soil. The filtration system has been working, but the digging in this specific area uncovered a hot spot where apparently hydrocarbons in quantity were deposited many years ago, and the filtration system has simply been unable to catch up.

Representative Wayne asked if McCoy and McCoy should be picking up the tab for this additional work, rather than the state, since the consultant apparently missed this hot spot. Commissioner Russ said that the state contracted for McCoy and McCoy to do a remediation plan; that plan was in effect, it was approved by the Natural Resources Cabinet, and was working. However, excavation for this project encountered a spot that in another 5 to 15 years might have been satisfactorily cleaned.

Representative Wayne asked if Commissioner Russ meant the 1988/1989 study was not focused enough on the specific project that followed - construction of the sewer plant. Commissioner Russ said his recollection was that the study was as focused and detailed as possible at the time.

Representative Wayne said, if the consultant has insurance and the state has a contract with them, why shouldn't the state explore the possibility. Commissioner Russ said he would check with counsel, but he suspected the contract did not ask for fail-safe design. Mr. Hintze said the question whether the state has any legal recourse with the consultant will be examined.

Senator Buford said he thought it would be very difficult to hold McCoy and McCoy responsible for not finding this specific point of contamination on the property, since testing every square foot would cost more than the project itself. Also, he said, it is possible that the General Assembly, in its 1991 Special Session, may have upgraded some environmental standards that may not have been in place in 1989. Commissioner Russ said all indications are the system was working fine. Readings are being taken at a test well every month, and they are improving. Readings taken at a little creek that runs through the area also look good.

Chairman Damron asked if these contingency funds have already been

funds had already been transferred. (The 1994 General Assembly in its first special session authorized funding totaling \$605,000 for this project, including General Fund Surplus monies of \$36,300 for design, \$568,700 in bond funds for construction.) Mr. Hintze said this is the only swimming pool at the Park. The low bid was more than 15% over the budgeted amount for the project, but by cutting out project elements it was possible to get back to the 15% statutory limit on overruns. The Pool Renovation project involves bringing the pool up to current safety and health codes and ADA requirements, as well as providing a nicer pool to serve a renovated park that is one of the oldest in the state's Park system.

Mr. Hintze said after the project report was sent to the Committee asking for approval for funds from the contingency account, Facilities Management sought but was unsuccessful in obtaining a bid extension from the low bidder. In this case, the low bidder was a lot lower than the other bidders, and even he was well over the budgeted scope so the project had to be squeezed to get it back under the 15%. The decision was made to proceed with bid award and take the low bid, prior to the Committee meeting, rather than have the contractor walk away from the project, leaving the state either to accept a higher bid or not have a project. In addition, since the swimming pool is to be open by Memorial Day, every day that is lost is critical. In this case, Mr. Hintze said, the decision was made, mindful of KRS 45.800, that it was in the public interest to award the bid and speak to the issue before the Committee today.

Chairman Damron asked if the Committee's meeting schedule is considered when projects are scheduled for bid. Mr. Hintze said not typically; there are so many bids and so many projects, and so many contingencies and adjustments - more in the bid calendar, but also in the legislative calendar - that it is almost an impossibility to tailor the bids to Committee meeting dates. He said the Cabinet knows now that the Committee's December meeting will be on the 17th; however, the bid schedule with respect to projects on-line for December was set months ago and, given the complexity, cost and the magnitude of projects, it is an impossibility to fine-tune individual projects so they all come in the way one would like, to conform neatly with the law.

Mr. Hintze said Secretary McCarty had authorized him to invite further discussion - public and private - on how the Committee wants to proceed. He noted the dilemma the Cabinet faces, particularly on the Parks projects and the difficulty of completing them over this winter season. He suggested consideration might be given to modifications in the law and modifications in reporting procedures to make this a more

Chairman Damron said he believed the action of the Committee today sends a clear message that the Committee wants contingency allocations submitted before funds are transferred. He said he also would ask Committee staff to work with the Parks Department to provide a thorough report on the Parks Revitalization projects at the Committee's January meeting, citing which projects are complete, which ones have had cost overruns or anticipate cost overruns, and which ones are under budget.

Representative Todd asked if any state parks pay their way. Mr. Bender of the Parks Department said several state parks do generate more income than the amount of their total expenses, but obviously there are a number that do not or requests would not be made for General Fund appropriations. However, he said, if you look at the economic impact generated by the Parks system and the General Fund and Road Fund dollars created by activity revolving around the Parks system, it is a self-supporting organization.

Representative Todd asked if Cumberland Falls is one of the oldest state parks. Mr. Bender said it is, and it historically has paid its own way operationally.

Representative Todd made a motion to ratify the action already taken by the Finance Cabinet regarding the Cumberland Falls project. The motion was seconded by Senator Buford.

Representative Wayne said in order to be consistent, the Committee should consider taking no action on this project as well. It will not jeopardize the project since it is already done, he said, and he understood the point made by Representative Todd.

Senator Leeper said he agreed with Representative Wayne that it would be inconsistent to ratify action taken by Finance on this project. He said it would not affect the project; he did not feel comfortable disapproving Finance's action because he thought the project needs to go on. He said he did believe the Committee needed to be consistent with its earlier action. He expressed dismay over driving 4 hours for a Committee meeting and finding out everything has already been done before you get here. He said he would prefer to take no action and send a message back.

The motion to ratify Finance's action failed by voice vote.

Representative Wayne made a motion that the Committee take no action on this

received, and re-bidding the project probably would not yield better results due to anticipated cost increases in steel, building materials, and labor. Military Affairs will fund \$8,000 of the overrun from its maintenance pool, with the balance of \$6,500 paid with federal funds. The new authorized project scope will be \$411,500. Senator Buford made a motion to approve the cost overrun for the project. The motion was seconded by Representative Maggard and approved by unanimous voice vote.

Next was reported an unbudgeted major item of equipment for the Kentucky State Police - a 1971 Beechcraft King Air Aircraft. Mr. Hintze said the Aircraft, with twin turbo engines, a pressurized cabin, and seating for 7 passengers and 2 pilots, is valued at about \$750,000 which is above the line-item threshold. It is a gift to the Commonwealth at no charge from the federal government's Military Surplus Program. The State Police acquired this, he said, by virtue of their own diligence and the fact that the state can put it to productive use in drug enforcement activities, for returning out-of-state prisoners to the Commonwealth, and for Executive security functions which are statutorily an obligation of the State Police.

Representative Maggard said he wanted to commend State Police Commissioner Rose for his foresight in seeing the benefit the state will get from this equipment. This is a cost saving item for the state, because the state already has pilots, and the plane is new enough it will require less maintenance than the state's other planes require.

Senator Nunnelley asked how many planes the state currently has with which to transport prisoners. Commissioner Rose said currently the State Police has a Piper Navajo which seats 5, a Bell Long Ranger helicopter which seats 3, and an OH-6 helicopter which seats 2, as well as a Cessna 182, a single-engine, fixed-wing craft, which seats 4. Primarily the Navajo is used for going out of state to transport prisoners, he said.

Senator Buford made a motion to approve the project, use of the federal funds, and acceptance of the Beechcraft aircraft. The motion was seconded by Senator Nunnelley and approved by unanimous voice vote.

Mr. Hintze said the next project is the first-time reporting of a land acquisition under the Heritage Land Conservation Fund (HLCF). This is a new reporting requirement in the current Budget Bill, wherein land acquisitions costing over \$400,000 per project must be reported to the Committee through the Finance Secretary. This

Gordon Lewis tracts, is believed to be between 100 and 180 acres. Price established for the acquisition is \$385 per acre.

Chairman Damron said Dr. William Martin, Commissioner of the Department of Natural Resources and Chair of the HLCF Board, will be reporting in the future to the Committee on the overall acquisition program, and has agreed to provide periodic updates. Chairman Damron said, at the same time, he would like for Finance to continue to report on land acquisitions valued at \$400,000 or more. No action by the Committee was required for the acquisitions.

The final item was a status report on the use of federal Economic Development Administration (EDA) funds for infrastructure improvements at Bluegrass Station, the former Lexington-Bluegrass Army Depot at Avon. In December 1995, it was reported to the Committee that the \$1,007,778 federal grant matched 25% with Military Affairs' restricted funds would be used for modernization of the telecommunications system, and renovation of the water distribution and sewer systems. The 1996 General Assembly subsequently authorized funds for the Water Distribution System Renovation totaling \$600,000 (\$150,000 in restricted funds and \$450,000 from the federal grant), as well as \$628,000 in restricted funds for the Electrical System Upgrade.

The Telecommunications Upgrade was reported as 100% complete and was funded with a combination of funds from state economic development bonds authorized for Bluegrass Station by the 1994 General Assembly (\$270,502) and from the Bluegrass Station agency fund operating account (\$31,920). The total \$302,422 expenditure counts toward the matching requirements for the EDA grant.

The Water System Upgrade is now expected to cost \$699,900 with agency restricted funds for design (\$38,700) and some construction (\$33,504); federal funds for construction (\$327,696); and the Kentucky-American Water Company's contribution of a water tank (\$300,000) in exchange for a site on which to place it at Bluegrass Station. (The water tank will serve the community as well as Bluegrass Station.) The agency funds for construction will count toward the matching requirements for the EDA grant.

The Sewer System Upgrade is now estimated to cost \$732,382. Military Affairs notes that neither this figure nor the original estimate were anticipated to fund a 100% upgrade to the plant and lines and that both estimates were "balancing" figures based

Military Affairs reported that Electrical System Upgrade included in the 1996 Budget Bill was in error due to "overall confusion associated with the infrastructure upgrade." It requested that the project be deleted from the state accounting system.

Chairman Damron asked if there are any further plans to expand the capacity of the sewer system beyond the project as reported today. Mr. Hintze said there are no funds to do so any time soon, though there may be a long-range plan for it.

Chairman Damron said the report was provided for the Committee's information; no action was required.

Chairman Damron said several Information Items were provided: (1) a quarterly report on implementation of the Parks Revitalization Bond Projects; and (2) news articles.

Chairman Damron said the next meeting of the Committee was scheduled for Tuesday, December 17, at 10:00 a.m., pending LRC approval. He said the meeting date may be adjusted around Special Session activity. There being no further business to come before the Committee, the meeting was adjourned at 2:30 p.m.